NP

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,569	02/27/2002	Hideshi Fukutani	2002_0213A	5898

513 7590 07/03/2002

WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON, DC 20006-1021

EXAMINER	
PEREZ, GUILLERMO	
ART UNIT	PAPER NUMBER
2834	

DATE MAILED: 07/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/083,569	FUKUTANI, HIDESHI	
	Examiner	Art Unit	
	Guillermo Perez	2834	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-12 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-12 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4 .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. Claims 1-2, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted Prior Art (APA) in view of Moritan et al. (U. S. Pat. 5,623,382).

APA substantially teaches the claimed invention except that it does not show a cap facing the through-holes and disposed at a place spaced axially from the through-holes.

Moritan et al. disclose a cap (218) facing the through-holes (202a) and disposed at a place spaced axially from the through-holes (202a). The invention of Moritan et al. has the purpose of limiting the axial movement of the rotor.

It would have been obvious at the time the invention was made to modify the motor of APA and provide it with the cap configuration disclosed by Moritan et al. for the purpose of limiting the axial movement of the rotor.

2. Claims 3-6 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over APA in view of Moritan et al. as applied to claims 1 and 10 above, and further in view of Gomyo et al. (U. S. Pat. 6,010,246).

APA and Moritan et al. substantially teaches the claimed invention except that it does not show that the cap is press-fitted to an inner wall of the stator core. Neither APA nor Moritan et al. disclose that the cap is press-fitted to an inner wall of the stator core and has a radial gap between an outer wall of the oil impregnated metal and an inner wall of the cap. Neither APA nor Moritan et al. disclose that the cap is made of magnetic material. Neither APA nor Moritan et al. disclose that an attracting magnet is disposed outside the cap. Neither APA nor Moritan et al. disclose that a height of the end face is greater than a height of an end face of the attracting magnet.

Gomyo et al. disclose that the cap (22,24,27) is place into an inner wall of the stator core (21). Gomyo et al. disclose that the cap (22,24,27) is placed into an inner wall of the stator core (21) and has a radial gap between an outer wall of the oil impregnated metal (31) and an inner wall of the cap (22,24,27). Gomyo et al. disclose that the cap (22,24,27) is made of magnetic material (27a). Gomyo et al. disclose that an attracting magnet (27a) is disposed outside the cap (22,24,27). Gomyo et al. disclose that a height of the end face of the cap (22,24,27) is greater than a height of an end face of the attracting magnet (27a in figure 1). The invention of Gomyo et al. has the purpose of preventing the lubricant fluid from leaking out of the bearing.

It would have been obvious at the time the invention was made to modify the motor of APA and Moritan et al. and provide it with the cap and magnet configuration

disclosed by Gomyo et al. for the purpose of preventing the lubricant fluid from leaking out of the bearing.

Referring to claims 2-6, no patentable weight has been given to the method of manufacturing limitations (i. e. "burring-processed", "pressed-fitted") since "even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." *In re Thorpe,* 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985)

3. Claims 7-8, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over APA in view of Hsu et al. (U. S. Pat. 5,952,756).

APA substantially teaches the claimed invention except that it does not show an attracting magnet facing the through-holes, spaced axially from the through-holes, and disposed on an upper face of the stator core.

Hsu et al. disclose an attracting magnet (26) facing the through-holes (68), spaced axially from the through-holes (68), and disposed on an upper face of the core (24). The invention of Hsu et al. has the purpose of facilitating the sliding of the permanent magnet into the slot of the rotor.

It would have been obvious at the time the invention was made to modify the motor of APA and provide it with the magnet and through-holes configuration disclosed

by Hsu et al. for the purpose of facilitating the sliding of the permanent magnet into the slot of the rotor.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the core 24 fixed and the core 10 rotary since it has been held that a mere reversal of the essential operation of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

4. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over APA in view of Hsu et al. as applied to claim 7 above, and further in view of Petersen (U. S. Pat. 5,659,217).

APA and Hsu et al. substantially teaches the claimed invention except that it does not show that the attracting magnet is a sintered magnet of Neodymium-Iron-Boron system.

Petersen discloses that the attracting magnet is a sintered magnet of Neodymium-Iron-Boron system (column 10, lines 18-20). Petersen's invention has the purpose of improving the air gap magnetic flux.

It would have been obvious at the time the invention was made to modify the motor of APA and Hsu et al. and provide it with the material disclosed by Petersen for the purpose of improving the air gap magnetic flux.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the magnet of Neodymium-Iron-Boron since it has been held to be within the general skill of a worker in the art to select a known material on the

basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Referring to claim 8, no patentable weight has been given to the method of manufacturing limitations (i. e. "burring processed") since "even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." *In re Thorpe,* 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985)

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Guillermo Perez whose telephone number is (703) 306-5443. The examiner can normally be reached on Monday through Thursday and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nestor Ramirez can be reached on (703) 308 1371. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305 3432 for regular communications and (703) 305 3432 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308 0956.

Guillermo Perez
June 27, 2002

KARL TAMAI
PRIMARY EXAMINER